



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2015-0784, FRL-9940-19-Region 9]

Revisions to the California State Implementation Plan, Santa Barbara County Air Pollution Control District; Permit Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the Santa Barbara County Air Pollution Control District (SBCAPCD or District) portion of the California State Implementation Plan (SIP). These revisions concern administrative and procedural requirements to obtain preconstruction permits which regulate emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on [**Insert date 60 days after date of publication in the Federal Register**] without further notice, unless the EPA receives adverse comments by [**Insert date 30 days after date of publication in the Federal Register**]. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number [EPA-R09-OAR-2015-0784, by one of the following methods:

1. *Federal eRulemaking Portal:* www.regulations.gov. Follow the on-line instructions.
2. *E-mail:* R9airpermits@epa.gov.
3. *Mail or deliver:* Gerardo Rios (Air-3), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901. Deliveries are only accepted during the Regional Office's normal hours of operation.

Instructions: All comments will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through www.regulations.gov or e-mail. www.regulations.gov is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to

consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: Generally, documents in the docket for this action are available electronically at www.regulations.gov and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105-3901. While all documents in the docket are listed at www.regulations.gov, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Ya-Ting (Sheila) Tsai, EPA Region IX, (415) 972-3328, Tsai.Ya-Ting@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to the EPA.

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I. The State's Submittal

A. What rules did the State submit?

Table 1 lists the rules addressed by this proposal with the dates that they were adopted or revised by the SBCAPCD and submitted by the California Air Resources Board (CARB).

TABLE 1.--SUBMITTED RULES

Local Agency	Rule #	Rule Title	Adopted/ Revised	Submitted
SBCAPCD	201	Permits Required	06/19/2008	10/20/2008
SBCAPCD	203	Transfer	04/17/1997	03/10/1998
SBCAPCD	204	Applications	04/17/1997	03/10/1998
SBCAPCD	206	Conditional Approval of Authority to Construct or Permit to Operate	10/15/1991	01/28/1992

On November 18, 2008, the EPA determined that the submittal for SBCAPCD Rule 201 met the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review. On May 21, 1998, the submittals of Rules 203 and 204 were found to meet the completeness criteria. On April 28, 1992, the submittal for Rule 206 was found to meet the completeness criteria.

B. Are there other versions of these rules?

Table 2 lists the dates of the SIP approved versions of Rules 201, 203 and 206. There is no previous version of Rule 204 approved in the SIP, although the SBCAPCD adopted and revised an earlier version of this rule on April 17, 1997, and CARB submitted it to us on March 10, 1998. We approved an earlier version of Rule 201 into the SIP on May 5, 1982. The SBCAPCD adopted revisions to the SIP-approved version on April 17, 1997 and CARB submitted it to us on March 10, 1998. While we can act on only the most recently submitted version, we have reviewed materials provided with previous submittals.

TABLE 2.-SIP APPROVED RULES

Local Agency	Rule #	Rule Title	SIP Approval Date	Federal Register Citation
SBCAPCD	201	Permits Required	05/05/1982	47 FR 19330
SBCAPCD	203	Transfer	05/18/1981	46 FR 27116
SBCAPCD	206	Conditional Approval of Authority to Construct or Permit to Operate	05/18/1981	46 FR 27116

C. What are the purposes of the submitted rules?

Section 110(a) of the CAA requires States to submit regulations that will assure attainment and maintenance of the National Ambient Quality Air Quality Standards (NAAQS). These rules were developed as part of the local agency's general programmatic requirement to implement the requirement commonly referred to as the minor or general New Source Review (NSR)

program. The revisions made by the submitted rules listed in Table 1 are mostly administrative in nature. New Rule 204 lists information required to apply for an Authority to Construct (ATC) or a Permit to Operate (PTO). Rule 201 has been reformatted for clarity. Several additions were also made to add provisions related to state law. Rules 203 and 206 have been reformatted with minor revisions for clarity. There are no substantive changes to these rules.

The TSD has more information about these rules.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the rules?

SIP rules must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(1)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193). The submitted rules, except Rule 204, are revisions to existing SIP approved general NSR permit program requirements under 40 CFR 51.160-51.164. The revisions are primarily administrative in nature (reformatting, provide additional clarity), but we also discuss the rules or portions of each rule, that serve to satisfy any of these general permit program requirements. Rule 204 contains requirements for ATC and

PTO applications improving the clarity of the general NSR permit program.

B. Do the rules meet the evaluation criteria?

These rules are consistent with CAA requirements and relevant guidance regarding enforceability and SIP revisions. These changes are mostly administrative in nature and their approval will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other CAA applicable requirement.

The TSD has more information on our evaluation.

C. Public comment and final action.

As authorized in section 110(k)(3) of the Act, the EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by [**Insert date 30 days after date of publication in the Federal Register**], we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will

be effective without further notice on [**Insert date 60 days after date of publication in the Federal Register**]. This action will incorporate these rules into the federally enforceable SIP.

Please note that if the EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, the EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the SBCAPCD rules described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available electronically through www.regulations.gov and in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is

to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The

EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [**Insert date 60 days after date of publication in the Federal Register**]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of this **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that the EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations,
Nitrogen dioxide, Ozone, Particulate matter, Reporting and
recordkeeping requirements.

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Dated: December 3, 2015.

Jared Blumenfeld,
Regional Administrator,
Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 - Approval and Promulgation of Implementation Plans

1. The authority citation for part 52 continues to read as follows:

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Subpart F - California

2. Section 52.220 is amended by adding paragraphs

(c) (51) (xiii) (E), (F), and (G), (c) (187) (i) (E),

(c) (254) (i) (C) (6) and (7), and (c) (361) (i) (A) (4) to read as

follows:

§52.220 Identification of plan.

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(c) * * *

(51) * * *

(xiii) * * *

(E) Previously approved on May 18, 1981 in paragraph (c) (51) (xiii) (A) of this section and now deleted with replacement in paragraph (c) (187) (i) (E) (1) of this section, Rule 206.

(F) Previously approved on May 18, 1981 in paragraph (c) (51) (xiii) (A) of this section and now deleted with replacement in paragraph (c) (254) (i) (C) of this section, Rules 203 and 204.

(G) Previously approved on May 18, 1981 in paragraph

(c) (51) (xiii) (A) of this section and now deleted with replacement in paragraph (c) (361) (i) (A) (4) of this section, Rule 201.

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(187) * * *

(i) * * *

(E) Santa Barbara County Air Pollution Control District.

(1) Rule 206, "Conditional Approval of Authority to Construct or Permit to Operate," Revised October 15, 1991.

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(254) * * *

(i) * * *

(C) * * *

(6) Rule 203, "Transfer," revised April 17, 1997.

(7) Rule 204, "Applications," revised April 17, 1997.

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(361) * * *

(i) * * *

(A) * * *

(4) Rule 201, "Permits Required," revised June 19, 2008.

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